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Before the  
**Federal Communications Commission**  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.202(b) )  
FM Table of Allotments )  
FM Broadcast Stations )  
(Fair Bluff, North Carolina, Litchfield )  
Beach, Johnsonville and Olanta, )  
South Carolina)

MM Docket No. 00-226  
RM-10001

To: Chief, Allocations Branch  
Mass Media Bureau

**REPLY OF ATLANTIC BROADCASTING COMPANY, INC.**

Atlantic Broadcasting Co., Inc. ("Atlantic"), by its attorneys, and pursuant to Sections 1.415 and 1.420 of the Commission's Rules, hereby replies to the "Comments on Notice of Proposed Rule Making" filed December 26, 2000, by Root Communications License Company, L.P. ("Root") concerning the Notice of Proposed Rule Making, DA-2485, released November 3, 2000 ("NPRM") in this proceeding. Atlantic shows herein that the Root pleading is contradictory, fraught with errors, and probative of nothing. Root's Comments should be rejected, and the proposal set forth in the NPRM promptly adopted.

**Background**

Atlantic, permittee of WSIM, Fair Bluff, North Carolina, and Waccamaw Neck Broadcasting Company ("Waccamaw"), licensee of off-the-air WPDT, Johnsonville, South Carolina, jointly petitioned the Commission to reallocate Channel 287C3 from Fair Bluff for use by WSIM at Litchfield Beach, South Carolina, and to reallocate Channel 286A from Johnsonville for

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use by WPDT at Olanta, South Carolina. Both Litchfield Beach and Olanta would, as a result, receive first local services. The docket contains only five records; i.e., the NPRM, a change of address filing, the comments of Atlantic and Waccamaw (jointly with Glory Communications, Inc. (“Glory”), and Root’s opposing comments. Apparently, Root was the only entity interested in this proceeding other than the proponents. Root argues that (1) the proposed allotments conflict with Section 307(b) of the Communications Act because, in Root’s view, neither Litchfield Beach nor Olanta are communities for allotment purposes; (2) Litchfield Beach is not eligible for award of a preference for first local service because it is interdependent on Myrtle Beach; and (3) reallocation of Channel 286A from Johnsonville to Olanta would not result in a preferential arrangement of allotments because Johnsonville would be deprived of its sole transmission service. None of Root’s arguments are supported by the facts. On December 26, 2000, Atlantic and Waccamaw/Glory filed comments demonstrating that Litchfield Beach and Olanta are communities for allotment purposes. Atlantic and Waccamaw/Glory also addressed the issue of removing defunct WPDT from Johnsonville. Root raises the issue of Litchfield Beach’s alleged interdependence on Myrtle Beach for the first time in its Comments. Atlantic shows herein that Litchfield Beach is not interdependent on Myrtle Beach.

To rebut Root’s arguments, Atlantic sets forth the following information:

**Litchfield Beach and Olanta  
Are Communities for Allotment Purposes**

Atlantic has shown in its Comments that Litchfield Beach is a community for allotment purposes. Waccamaw/Glory has shown that Olanta is also a community for allotment purposes. The question of whether Olanta is a “community” was settled in Waccamaw/Glory’s comments.

Therein it is reported that Olanta is an incorporated town chartered in 1908 with a mayor-council form of government and is recognized as a significant community within South Carolina.<sup>1</sup> As stated in the NPRM (at para. 5), "Generally, if a community is incorporated or listed in the U.S. Census, that is sufficient to satisfy its status." In this case, Root has its facts wrong in arguing that Olanta is a census designated place and is not incorporated. Olanta has been an incorporated town for nearly a century. To further demonstrate that Olanta is a community, attached (Exhibit 1) is a copy of a letter from Olanta Mayor Mel Thompson, which is incorporated herein by reference. Mayor Thompson lists the governmental services provided by Olanta, including police, fire protection, water and sewer service, streets, recreation, beautification, planning and grants. Mayor Thompson states that Olanta is a part of the Florence County School System, as are all public schools in Florence County, however, there is a new Olanta Elementary School in Olanta. Mayor Thompson notes that Olanta residents work where they can find jobs, but some also work in Olanta. (Traveling to another community is not dispositive as to the lack of status of the residential community.) To summarize, Olanta is without a doubt a community for allotment purposes.

Similarly, Root attacks Litchfield Beach as not being worthy of its own radio station. Root recites a litany of items that it claims shows that Litchfield Beach is not a community for allotment purposes. Atlantic's December 26, 2000, Comments provide ample evidence that Litchfield Beach is deserving of its own allotment. Root points out as evidence of non-community status that Litchfield Beach has no post office, has a business association called the Pawley's Island-Litchfield Business Association located in Pawley's Island, has no separate

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<sup>1</sup> See letter dated December 18, 2000, authored by Olanta's Mayor Mel Thompson which was submitted with Waccamaw/Glory's comments filed December 22, 2000.

political structure, the county in which it is located collects taxes, provides schools, police and fire protection and water. Root states that Litchfield does not have a hospital. Root states that the residents are predominately retired. Root claims that the local paper refers to itself as a Pawley' Island paper, that there are no civic organizations and that the library serves the entire area including Pawley's Island. All this information, gathered through discussions with the Georgetown Chamber of Commerce, the Waccamaw Neck Library and the Internet is woefully short on proof. Atlantic's Comments provide ample evidence that Litchfield Beach is a community for allotment purposes. Additionally, the Commission has found to be communities for allotment purposes much smaller communities with less indicia of community than Litchfield Beach. See, for example, Sampit, South Carolina, a community that the Commission found to have a population of only about 150 persons, in *Monck's Corner, Kiawah Island and Sampit, South Carolina*, 15 FCC Rcd 8973 (released May 19, 2000), was found to be a community for allotment purposes. With respect to Sampit, the Commission found that:

"Sampit has a core group of business, social, religious, and civic organizations that claim to identify with and serve the needs of Sampit residents and a group of citizens has submitted declarations identifying themselves and claiming that they perceive of themselves as part of a Sampit community. The fact that Sampit has no local government and provides no municipal services such as police or fire protection to Sampit residents does not prohibit a finding that Sampit is a "community."

Atlantic has submitted much more evidence of community status for Litchfield Beach than the facts on which the Commission based its findings with respect to the status of Sampit. For example, attached hereto as Exhibit 2, and incorporated herein by reference, is a copy of a letter from Thomas W. Edwards, Jr., Georgetown County Administrator. Mr. Edwards states unequivocally that he has reviewed the FCC's definition of a community and that "Litchfield

meets this criteria.” Mr. Edwards explains that Litchfield<sup>2</sup> has always been identified as a “distinct community.” On August 10, 1999, Georgetown County Council amended its official Zoning Map, which designates five distinct geographic areas that comprise the Zone. Subsection 1800.1.3 is the Litchfield Zone “based on the Litchfield community and has definitive boundaries.” Mr. Edwards explains that Georgetown County provides services in the community, including a fire station and is building a new school to serve the community. Mr. Edwards notes that the community attempted incorporation in 1999 but was unsuccessful. That, in itself, shows that the community views itself as a separate population grouping. Mr. Edwards reiterates that Litchfield is covered by Census Tracts 9805003, 9805005 and 9805006, and that the community is experiencing a very rapid rate of growth. Mr. Edwards states that the community has approximately one hundred businesses ranging from grocery stores to medical offices. The Georgetown Hospital has recently opened a major fitness center in the community. In short, Root has failed to show that Litchfield Beach is not a community for allotment purposes.

### **Atlantic Proposes a First Local Service to Litchfield Beach**

Root claims on the one hand that Litchfield Beach is just a part of Georgetown County, and then on the other (at Comments p. 5) argues that Litchfield Beach is interdependent on Myrtle Beach, South Carolina, and ineligible for a first local service preference. Root is correct that the Commission, in making its analysis of whether a proposal to serve a suburban community should receive a first local service preference considers (1) signal population coverage; (2) the size and proximity of the suburban community to the larger community; and (3)

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<sup>2</sup> Counsel is informed that the terms “Litchfield” and “Litchfield Beach” are sometimes used interchangeably.

the interdependence of the suburban community and the larger community. However, that is where Root's accuracy ends. First, Myrtle Beach is located in Horry County, not Georgetown County, the site of Litchfield Beach. Second, Myrtle Beach is only one of several coastal communities that begin in the north at Little River, South Carolina, and continue down the so-called "Grand Strand" of Atlantic Ocean beach communities to Georgetown, South Carolina.<sup>3</sup> Root has provided not one scintilla of probative evidence that Litchfield Beach is interdependent on Myrtle Beach. In his letter (Exhibit 2), Georgetown County Administrator Thomas W. Edwards, Jr., clearly refutes Root's charge. Mr. Edwards states that "Myrtle Beach provides no services to this community." He adds:

"To be assumed to be a part of Myrtle Beach would be an insult to the citizens of the Litchfield community. The community associations in Litchfield have worked hard with my staff and our County Council to ensure that the community does not become "Myrtlized". We have listened to their concerns and have developed laws designed to ensure that the sprawl that has occurred in Myrtle Beach does not extend to this community."

There is no question remaining that Litchfield Beach is a separate community, not dependent on Myrtle Beach, and deserving of its own radio station, which WSIM can become if the FCC grants the proposal.

Ironically, if Root were correct in its analysis, Root would have to return to the FCC for cancellation the licenses of several of its own radio stations that are licensed to communities along the Grand Strand. Root's willingness to argue that Litchfield Beach is not a qualifying community is astonishing in light of the fact that some of its stations are licensed to communities

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<sup>3</sup> Traveling approximately 50 miles from north to south, some of the more significant communities are Little River, North Myrtle Beach, Ingram Beach, Crescent Beach, Atlantic Beach, Briarcliffe Acres, Myrtle Beach, Socastee, Bucksport, Surfside Beach, Garden City Beach, Murrell's Inlet, Litchfield Beach, Pawley's Island, and Georgetown. Many of the communities are close to or adjoin Myrtle Beach, and many have their own radio stations.

smaller than Litchfield Beach which communities, in many cases, do not have the all the indicia of community that Root asserts a community must have to merit an allotment. Atlantic has shown that Litchfield Beach has a population of 3,840 persons. However, the town of Ocean Isle Beach, North Carolina, to which Root's WDZD is licensed, had a 1990 population of only 523. In the Myrtle Beach market, Garden City, South Carolina, is an unincorporated census designated place to which Root's WWXM is licensed. Channel 249C1 was reallocated from Georgetown to Garden City in *Georgetown and Garden City, South Carolina*, 12 FCC Rcd 13394, released September 5, 1997. Questions concerning Garden City's status as a community for allocation purposes were raised in the proceeding, yet the FCC found Garden City to have sufficient indicia of community. Root did not object to the Commission's allotment proposal, but, in contrast, purchased the station and operates it at this time without much concern over whether Garden City is community for allotment purposes. Also near Myrtle Beach, Bucksport, South Carolina, is another unincorporated census designated place with a 1990 population of 1,022, to which Root's WGTR is licensed. In *Carolina Beach, Havelock, Hertford, Jacksonville, Fair Bluff, Wilmington, Shallotte and Longwood, North Carolina, and Murrells Inlet, Bucksport, Darlington, Loris, St. Stephen, North Myrtle Beach, Surfside Beach, Johnsonville, Scranton, Kure Beach, Georgetown and Stallville, South Carolina*, 7 FCC Rcd 544, released January 15, 1992, the Commission rejected arguments similar to those made by Root in this case and found that the allotment of Channel 300C2 to Bucksport would provide Bucksport with its first local transmission service. A party had argued that Bucksport was not a community, claiming that Bucksport lacks the relevant indicia of community status. The objecting party submitted a letter from a member of the Horry County Council, the county in which Bucksport is located, stating that Bucksport is a rural area with no local government and no social, civic or recreational

groups. Bucksport, according to the author of the letter, contains a marina and restaurant, a grocery store, two bars, and several churches. Although equipment for volunteer firefighters is maintained in the area, a caller must call a Conway, South Carolina, telephone number. The opposing party submitted a declaration from the former chairman of the Myrtle Beach Planning and Zoning Commission, who claimed that Bucksport is served by Horry County services, that it is represented by a council member on the Horry County Council, and has no governing bodies. The Commission rejected the arguments, stating its belief that Bucksport constitutes a community for allotment purposes. The Commission stated that even though Bucksport may lack a separate local government, an area need not exhibit each indicia of community status to be a community. Root acquired WGTR, and operates it today from the small town of Garden City. Obviously, Root never objected to the allotment of the channel to Bucksport. Also near Myrtle Beach, Briarcliffe Acres, South Carolina, is a town with a 1990 population of 552, to which Root's WWSK is licensed. The Commission in *Mullins and Briarcliffe Acres, South Carolina*, 14 FCC Rcd 10516, July 2, 1999, reallocated FM Channel 296C2 from Mullins, to Briarcliffe Acres, South Carolina, although Briarcliffe Acres is a small residential town without all the indicia of community status.

The communities of Garden City, Bucksport and Briarcliffe Acres are in the Myrtle Beach, South Carolina, market, and have indicia of community strikingly similar to those of Litchfield Beach. If Root is serious in its arguments against community status for Litchfield Beach, it should forthwith surrender the licenses of WWXM, WGTR and WWSK for cancellation since they are serving places that, Root must believe, are not communities for allotment purposes. Root's arguments against community status for Litchfield Beach are as ludicrous as Atlantic's expectation that Root would send in its licenses. In contrast, Root's



ownership of WWXM, WTGR and WWSK, which are licensed to small communities close to Myrtle Beach, proves that in order to be consistent with its findings in the cases of Garden City, Bucksport and Briarcliffe Acres, the Commission should find Litchfield Beach to be a community for allotment purposes.

### **The Removal of Channel 286A from Johnsonville Will Serve the Public Interest**

Root argues that the removal of Channel 286A from Johnsonville to Olanta, South Carolina, would deprive Johnsonville of its sole transmission service. However, both Atlantic and Waccamaw/Glory have shown that WPDT does not, and has not since 1997 provided a broadcast service to the residents of Johnsonville. WPDT has operated only for a day or so each year to prevent an automatic forfeiture of its license (Waccamaw/Glory Comments, p.4). It is not only incorrect, but also patently silly, for Root to assert that WPDT is now providing, or has for the past three years, provided any local service to Johnsonville. Root would deprive Olanta of a first local service and a highly respected African-American broadcaster from serving the community that has a high population of African-Americans. It should also be remembered that Atlantic has shown that a noncommercial educational FM channel is available for use at Johnsonville, and that a noncommercial educational broadcaster has expressed interest in constructing a station there.<sup>4</sup>

### **Conclusion**

For the reasons set forth herein, Atlantic respectfully requests the Commission to reject the arguments made in Root's Comments, and to promptly (a) reallocate channel 287C3 from Fair

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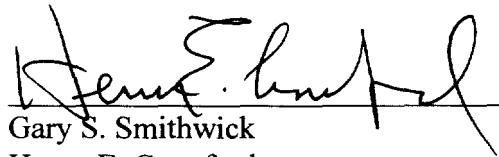
<sup>4</sup> No application can be filed at this time, as there is a temporary freeze imposed on the filing of noncommercial educational FM applications.

Bluff, North Carolina, to Litchfield Beach, South Carolina; (b) reallocate Channel 286A from Johnsonville to Olanta, South Carolina, and (c) modify the licenses of WSIM to operate at Litchfield Beach and WPDT to operate at Olanta, South Carolina.

Respectfully Submitted,

**ATLANTIC BROADCASTING CO. INC.**

By:

A handwritten signature in black ink, appearing to read "Gary S. Smithwick", written over a horizontal line.

Gary S. Smithwick  
Henry E. Crawford  
Its Attorneys

SMITHWICK & BELENDIUK, P.C.  
5028 Wisconsin Avenue, N.W.  
Suite 301  
Washington, D.C. 20016  
(202) 363-4050

January 10, 2001

**EXHIBIT 1**



Wol Thompson  
Mayor  
Timmy McCasheen  
Mayor Pro-tem

TOWN OF OLANTA  
POST OFFICE BOX 396  
OLANTA, SOUTH CAROLINA 29114

Woody Floyd  
Charlotte Rainey  
Betty Snow  
Council-Members

January 3, 2001

Federal Communication Commission

Dear Sirs:

I recently read the a copy of Root Communications document which states that the Town of Olanta, South Carolina is not incorporated and lacks the most indicia of a community. I would like to address each item as they were listed in the document from Root Communications:

- A. In contrary to their statements, Olanta was founded and incorporated in 1908 and was designated in the early 1970's to have a Mayor/Council form of Government.
- B. The Governmental services that the Town of Olanta provides are the following: Police Protection, the Chief is Ray Perdue; Fire Protection, the Chief is James Coker; we also offer water and sewer services to all of our residents and they are billed from Town Hall; We also have a Street Department, Recreation Department, Beautification Department, Planning Department, and a Grant Department. All of these departments are under the control of the Town of Olanta and are financed by taxpayers money.
- C. Olanta is a part of Florence County School System, but so are all the public schools in Florence County. That includes the City of Florence, South Carolina. Florence School District Number Three has recently built a new facility for the Olanta Elementary School located facing Welch Street in Olanta.
- D. Olanta residents, like so many other towns work primarily where they can find jobs. Some have been employed at Southern Impressions, a Division of Valley Forge Flag Company, here in Olanta, some own there own businesses; and some do travel to

other areas for their job. Olanta is located 23 miles from Florence, South Carolina, 15 miles from Timmonsville, South Carolina, and 11 miles from Lake City, South Carolina.

- E. The Town of Olanta has a current budget which is based on municipal taxes, local option sales taxes, police fines and water and sewer services. The 2000-2001 Budget is for our General, which includes fire, police, grant, recreation, beautification and planning is \$280,315.00 and our Water and Sewer Budget is \$287,809.32.

I have been Mayor of Olanta for the past seven years and unlike most jobs this has been truly a challenge. If you have any questions please feel free to contact me at (843)396-4301 and if you still have questions about Olanta not being a municipality then contact the Municipal Association of South Carolina (803)799-9574.

I am yours truly,

  
Melvin Thompson, II  
Mayor

**EXHIBIT 2**



January 8, 2001

*Founded 1769*

Federal Communications Commission  
Washington, DC 20554

Re: MM Docket No. 00-226  
RM-10001

Dear Sir:

We have received a copy of the comments regarding the proposed frequency for Litchfield Beach, South Carolina. I have reviewed your definition of a community and we feel that Litchfield meets this criteria. The Litchfield area of the Waccamaw Neck has always been identified as a distinct community. On August 10, 1999, Georgetown County Council amended the official Zoning Map of the county to include commercial corridor zones. Article XVIII designates five distinct geographic areas that comprise the zone. Subsection 1800.1.3 is the Litchfield Zone based on the Litchfield community and has definitive boundaries.

Georgetown County provides services in the Litchfield community. We currently have one Fire Station in the Litchfield Community. The Georgetown County School District is building a new school that will be in and serving the Litchfield community. Other public entities that serve this community include the State Department of Transportation, the Georgetown County Water and Sewer District, and the Office of Ocean and Coastal Resources. Other private entities provide additional services to this community such as security, cable, telephone, electricity, and others. Myrtle Beach provides no services to this community. There are several community associations that contact my staff on a regular basis that we do respond to. The area is represented on County Council by an elected Councilman representing this area and Murrells Inlet (another community several miles north of Litchfield). This area attempted incorporation in 1999 and was unsuccessful.

Population data is readily available to the general public. The Litchfield community is covered by Census Tracts 9805003, 9805005, and 9805006. The 2000 census is not fully available yet, however, 1990 data and estimates of current numbers are available from a variety of sources here and nation-wide. This community is experiencing a very rapid rate of growth and we are waiting to see what the 2000 numbers show.

Litchfield is a community in Georgetown County. It is a community with a broad mix of people that is growing at a rapid rate. Commercial growth has followed the residential growth. There are approximately a hundred businesses in this community ranging from grocery stores to medical offices. The Georgetown Hospital serves all of Georgetown County out of the City of Georgetown. They have recently opened a major fitness center in the Litchfield community. The School District will be opening a new school in the Litchfield community this fall.

Litchfield is located in Georgetown County. Myrtle Beach is located in Horry County. To be assumed to be a part of Myrtle Beach would be an insult to the citizens of the Litchfield community. The community associations in Litchfield have worked hard with my staff and our County Council to ensure that this community does not become "Myrtlized". We have listened to their concerns and have developed laws designed to ensure that the sprawl that has occurred in Myrtle Beach does not extend into this community.

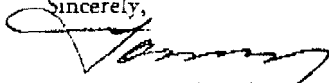
**GEORGETOWN COUNTY**

Post Office Drawer 1270 • 715 Prince Street  
Georgetown, South Carolina 29442-1270  
Telephone (843) 546-4189 • Fax (843) 546-4730

January 8, 2001

I feel that the location of this radio station in the Litchfield community will be of great value to the citizens who live there. I will be happy to provide additional information in support of this station as needed.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Tom Edwards', with a stylized flourish at the end.

Thomas W. Edwards, Jr.

County Administrator



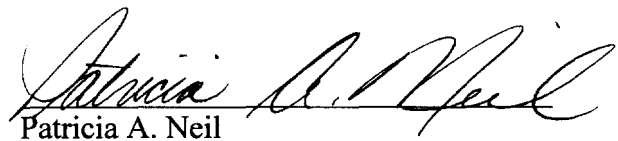
**CERTIFICATE OF SERVICE**

I, Patricia A. Neil, a secretary in the law offices of Smithwick & Belendiuk, P.C., certify that on this 10th day of January, 2001, 2000, copies of the foregoing were mailed, postage prepaid, to the following:

John A. Karousos\*  
Chief, Allocations Branch, Policy & Rules Division  
Federal Communications Commission  
The Portals II  
445 Twelfth Street, S.W.  
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Patricia A. Neil

(\*) By hand delivery